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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,623	08/13/2001	Jeffrey A. McKelvey	01SW100	8000

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Milwaukee, WI 53204

EXAMINER

PATEL, RAMESH B

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 02/18/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/928,623

Applicant(s)

MCKELVEY ET AL.

Examiner

Ramesh B. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-26 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 1-26 are presented for examination.

**Claim Objection**

2. The objection to claim 1 is withdrawn due to the amendment.

**Claim Rejections - 35 USC § 112**

3. The rejection under 35 USC 112, second paragraph to claims 1-14 and 23-26 withdrawn due to the amendment.

**Claim Rejections - 35 U.S.C. § 102**

4. The rejection to claims 1-26 under 35 U.S.C. 102(b) is maintained and updated to include the remark(s) and/or newly added limitation(s).
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-26 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Azarya et al. (US Patent 5,978,578).

As to claims 1, 11, 15 and 23, Azarya teaches the invention including a system, a method and a medium for interacting programmatically with an industrial controller, the system, the method and the medium, comprising: an automation interface component adapted to communicate with at least one industrial controller is taught as the automation system is capable of enabling I/O boards to access communication network for receiving and transmitting real time control information over a communication network which includes a control bus, a node controller and a development system (see, abstract and figures 3-4) and a computer process interface library integrated into the automation interface component, the computer interface library exposing the automation interface component to a client application process which can communicate with the at least one industrial controller programmatically and the client application being coupled to a website for interacting with industrial controllers over the Internet through automation interface component is taught as the system is capable of communicating with industrial controller components through network and Internet as shown in figure 4, elements 12-14, 18, 180 (see, abstract and figures 3-6, 8, 10 and col. 7, lines 1-12 and col. 8, lines 28-63 and col. 19, lines 15-31).

As to claim 2, Azarya teaches the system, the method and the medium wherein the computer process interface library being compiled into automation interface component to provide an executable file (see, abstract and figure 11, element 192).

As to claim 3, Azarya teaches the system, the method and the medium wherein the automation interface component being comprised of a plurality of objects comprising a top application object for invoking an instance of the automation interface by client application process (see, abstract and figure 8 and col. 6, lines 31-51 and col. 8, lines 56-62).

As to claims 4-5, 13, 19-20 and 24-25, Azarya teaches the system, the method and the medium wherein the automation interface component comprising functionality for uploading and/or downloading an instruction program from and to an industrial controller programmatically (see, abstract and col. 7, lines 1-12).

As to claims 6, 21 and 26, Azarya teaches the system, the method and the medium wherein the automation interface component comprising functionality for inserting a rung into a ladder logic instruction program, downloading the ladder logic program to the industrial controller and executing the program programmatically (see, abstract and figures 11-15 and col. 7, lines 1-12).

As to claims 7, 14, 22 and 16, Azarya teaches the system, the method and the medium further comprising a client application program functioning as one of a developer, a monitor, an editor and a maintenance system (see, figure 9, element 180).

As to claims 8-9, Azarya teaches the system, the method and the medium wherein the client application program residing at a remote server and the automation interface residing at a local server connected to one another by a first network, the automation interface being connected to an industrial controller by a second network wherein the first network being one of an intranet and the Internet and the second network being one of a local network and a factory network (see, abstract and figures 1-4).

As to claim 10, Azarya teaches the system, the method and the medium wherein the automation interface providing access to data of a controlled process associated with an industrial controller (see, abstract and col. 6, lines 31-51).

As to claim 12, Azarya teaches the system, the method and the medium further comprising the Internet for storing control data accessed from one or more industrial controllers by the client application (see, abstract and figures 11-15 and col. 6, lines 52-67).

As to claims 17-18, Azarya teaches the system, the method and the medium further comprising exposing the executable file to local and remote applications which comprising the executable file to the Internet via a web service (see, abstract and figures 10-11 and 17 and col. 6, lines 52-67).

6. Applicant's arguments filed 12/18/2003 have been fully considered but they are not persuasive. As to the applicant's arguments regarding claims 1-26, the Azarya reference teaches the invention including a system, a method and a medium for interacting programmatically with an industrial controller, the system, the method and the medium, comprising: an automation interface component adapted to communicate with at least one industrial controller is taught as the automation system is capable of enabling I/O boards to access communication network for receiving and transmitting real time control information over a communication network which includes a control bus, a node controller and a development system (see, abstract and figures 3-4) and a computer process interface library object oriented based objects and classes integrated into the automation interface component, the computer interface library exposing the automation interface component to a client application process which can communicate with the at least one industrial controller programmatically and the client application being coupled to a website for interacting with industrial controllers over the Internet through automation interface component is taught as the system is capable of communicating with industrial controller components through network and Internet as shown in figure 4, elements 12-14, 18, 180 (see, abstract and figures 3-6, 8, 10 and col.

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7, lines 1-12 and col. 8, lines 28-63 and col. 19, lines 15-31). The Azarya reference teaches the claimed language to the extent required by the claim language.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

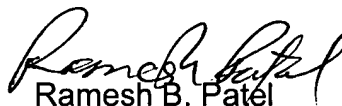


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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh B. Patel whose telephone number is 703-308-6673. The examiner can normally be reached on M-Th; 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anil Khatri can be reached on 703-305-0282. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9051 for regular communications and 703-305-3718 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

  
Ramesh B. Patel  
Primary Examiner  
Art Unit 2121

February 17, 2004